

State of California
Department of Justice
Division of Law Enforcement
BUREAU OF INVESTIGATION
Investigation Report

INVESTIGATION TITLE: ATWATER POLICE DEPARTMENT		INVESTIGATION NUMBER: BI-FR2018-00018
INVESTIGATION REQUESTED BY: CHIEF KEVIN GARDNER		TYPE OF REPORT: OPENING REPORT
CASE ASSIGNED TO: HERNANDEZ, ANDRE	PERSON REPORTING: HERNANDEZ, ANDRE	REPORT NO: 1
TYPE OF CRIME/INCIDENT: NO CRIME INVOLVED	CASE ASSIGNED SUPERVISOR: CAPELLO, RACHEL	DATE OF REPORT: 08/17/2018
CROSS REFERENCE NO(s):		

SUMMARY:

In August 2018, at the request of Division of Law Enforcement (DLE) Chief Kevin Gardner, agents from the California Department of Justice (CA DOJ), Bureau of Investigation (BI), Fresno Regional Office (FRO), Special Investigations Team (SIT) were assigned to be the lead in a multi-agency investigation regarding the Atwater Police Department's (APD) evidence vault. The request to conduct the evidence audit was made by Merced County Sheriff Vern Warnke. As a result of an evidence audit initiated in February 2018 by the Merced County Sheriff's Office, along with allegations of possible misconduct concerning the evidence at APD, I, Special Agent Supervisor (SAS) Andre Hernandez, was assigned to lead a multi-agency evidence audit of the APD's evidence vault.

On August 17, 2018, Special Agent (SA) Christopher Wagner and I traveled to the APD located at 750 Bellevue Ave., Atwater, CA. We interviewed Community Services Officer (CSO) Daniel Ortiz and toured the APD evidence vault and off-site evidence storage building. SA Wagner took photographs. I submitted the recorded interview and photographs to Property Controller Heather Garcia who subsequently booked the items as evidence under case BI-FR2018-00018.

DETAILS OF THE INVESTIGATION:

On August 17, 2018, Special Agent in Charge (SAC) Rachel Capello, SA Wagner and I met with Lieutenant (Lt.) Chuck Hale from the Merced County Sheriff's Office (MCSO) at the APD. Lt. Hale explained to SA Wagner and I that he was tasked in February 2018 to conduct an evidence audit at APD. He explained once the audit began, he noticed that items appeared to have been missing. He explained he located an empty gun box. The box appeared to have stored a handgun at one point but the zip ties had been cut. He also stated money could have been missing or not properly documented. The evidence vault was filled from floor to ceiling, with almost no room to get in and out of the vault when he conducted the audit. Because of the complexity, size and having to account for thousands of items, the audit was stopped. Evidence continued to be submitted to APD evidence until on or about July 29, 2018, when APD began storing evidence with the MCSO.

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Lt. Hale, SA Wagner and I then met with APD Interim Chief (IC) Drew Bessinger and CSO Ortiz. IC Bessinger informed me the evidence vault door's lock was rekeyed on or about August 6, 2018. No one but him had access to the evidence vault. He then proceeded to open the evidence vault so we could gain an understanding of how to proceed with the audit. Lt. Hale explained to SA Wagner and I that the evidence vault appeared to contain about half of the items that were stored when he began the evidence audit in February 2018. He asked CSO Ortiz if evidence was purged after February. CSO Ortiz, who is the property controller for APD, explained that an evidence purge had in fact been conducted after Lt. Hale had been there. CSO Ortiz provided an inventory list of the APD evidence vault. The evidence vault consisted of a small room, lined with shelving on all four walls. On the shelves were bins containing the evidence. Each bin was labeled so evidence could be tracked as to which bin it was stored in. There was also a safe with a digital combination, a locked refrigerator and cabinets that contained narcotics. There were items which had not been properly admitted into evidence as well as items that were missing evidence labels. CSO Ortiz stated most items not containing evidence labels were there prior to him assuming the position of property controller.

CSO Ortiz was found to have evidence in his office that was ordered to be destroyed and was being gathered for destruction. I instructed CSO Ortiz that the evidence needed to be secured. The evidence was subsequently placed in the vault.

Next, we travelled to 501 Industry Way, Atwater, CA, the location of the off-site APD evidence facility. The off-site facility is located in an industrial area, secured by a locked fence. However, the location is shared with the APD's Police Activity League (PAL) as well as the Atwater Kart Club. This is a motorsports club which maintains a race track on the property. The evidence storage building was secured with a locked door to which CSO Ortiz said he believed he was the only person who had a key. The PAL maintained and used the west end of the building. It too was locked and secured with a different key than APD's door.

Upon entering the building, CSO Ortiz disarmed the audible alarm in the building. I asked if the alarm was monitored by an alarm company. CSO Ortiz would later confirm that the building was not being monitored by an alarm company. The overall size of the building was approximately 60' x 40' with the APD utilizing approximately 40' x 40'. There was a wooden wall that was fabricated to separate the areas between PAL's area and the APD's evidence storage area. The wooden wall extended most of the way to the ceiling, however the APD's evidence storage area could be accessed with the assistance of a ladder.

Three walls were lined with racks. The racks held evidence, with most items being marked or labeled with evidence numbers. Some evidence was placed on the rack while drug evidence was placed in a bin and then placed in a cabinet on the wall. There was an unsecured refrigerator which CSO Ortiz stated contained biological evidence. I opened the refrigerator and it only contained a handful of small envelopes marked as evidence. CSO Ortiz stated the refrigerator was just about full with sexual assault kits that had recently been destroyed pursuant to a destruction order. There were numerous oversized items in the storage facility to include bicycles, a pallet containing City of

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Atwater documents, backpacks and bags. SA Wagner photographed both inside and outside the facility. We left the location locked and secured and returned to APD.

IC Bessinger took possession of the key to the off-site storage facility and would facilitate the door being rekeyed.

Next, SA Wagner and I conducted a recorded interview with CSO Ortiz. He provided the following statement. CSO Ortiz has been assigned as the property controller for APD since March 2017. Tyna Lamison was the property controller prior to CSO Ortiz taking the position. His training only included a two day training in Northern California. After completing his training, he assumed his position as the property controller for the APD. No change of custodian audit was done. He felt this was odd when he referred back to his training. A great deal of importance was placed on evidence audits during his training. He did not receive any other formal training, relying on Lamison to show him how to do his job. He often took direction from Lamison as it pertained to the evidence vault.

A destruction order was obtained in October 2017 by Lamison. CSO Ortiz along with Lamison would purge many evidence items as part of this destruction. He described the evidence vault as Lt. Hale did, with hardly any room available in the evidence vault. CSO Ortiz always located any item that was requested, whether it was for court or destruction. He agreed that the evidence vault was in disarray and unorganized.

CSO Ortiz said monies taken by APD were deposited into the City of Atwater's General Fund Account. He deposited money once since being the property controller. CSO Ortiz provided me with receipts of three deposits made by the APD. Of the three deposits made, only one was made by him with the others being made by Lamison. This was documented on receipt 133838 in the amount of \$482.00, Attachment 1-1. Just prior to Lamison resigning, she provided to CSO Ortiz, a ledger which she stated was for him to track confiscated monies. CSO Ortiz related that receipts 133122 (\$2039.00, Attachment 1-2) and 134844 (\$563.50, Attachment 1-3) were from deposits made by Lamison. CSO Ortiz explained these monies were not from one specific investigation and were gathered and deposited in one transaction. There was no way to distinguish what investigations the monies came from. The one time CSO Ortiz deposited money, he was told by Lamison which monies to deposit. It wasn't until IC Bessinger's appointment in July 2018 to APD that an account was created for evidentiary money.

At no time were property letters sent out prior to evidence being dispositioned. CSO Ortiz explained once the court order was obtained, the evidence was compiled and subsequently destroyed. CSO Ortiz along with one or two APD sergeants would take the evidence to Covanta to be destroyed. He was currently working on pulling evidence that was ordered destroyed in October 2017. CSO Ortiz would pull the evidence and destroy it in groups as it was gathered.

No memos or proper documentation outlining the destruction of evidence and property was done. CSO Ortiz showed SA Wagner and I an evidence inventory list with handwritten markings on it. He explained the evidence items with markings had either been destroyed, pulled for destruction or was approved for destruction. The lists he showed us were lists that had been produced by Lamison, with

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items marked by both her and CSO Ortiz as evidence was pulled, identified for destruction or destroyed.

Attached to this report is a memo (Attachment 1-4) prepared by Merced County District Attorney's Office (MCDAO) Supervising Investigator (SI) Anna Hazel. The memo documents an interview conducted by SI Hazel with Tyna Lamison. See attachment for details.

This report opens this investigation.

PHYSICAL DESCRIPTION:

A. Subjects:

NONE

B. Other(s):

Other(s):

1. LAMISON, TYNA, DOB-UNK,

LOCATION(S): 750 BELLEVUE RD, ATWATER, MERCED COUNTY, CA 95301-0000

2. ORTIZ, DANIEL, DOB-UNK,

LOCATION(S): 750 BELLEVUE RD, ATWATER, MERCED COUNTY, CA 95301-0000

PHONE(S): (209) 357-6384 (BUSINESS)

3. BESSINGER, DREW, DOB-UNK,

LOCATION(S): 750 BELLEVUE RD, ATWATER, MERCED COUNTY, CA 95301-0000

PHONE(S): (209) 357-6384 (BUSINESS)

EVIDENCE:

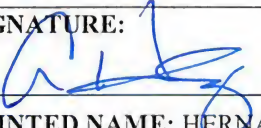
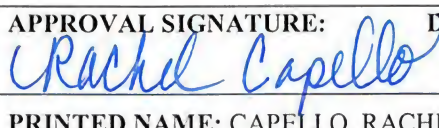
On September 10, 2018, all items of evidence were submitted by me to Property Controller Heather Garcia to be booked into the CA DOJ, FRO Evidence vault.

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<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>LOCATION FOUND</u>
001-001	CD containing photographs of Atwater Police Department evidence vault and off site evidence storage facility. Photos taken by SA Wagner	Atwater Police Department
001-002	CD containing interview with Atwater Police Department CSO Danny Ortiz. Interview conducted by SAS Hernandez and SA Wagner.	Atwater Police Department

ATTACHMENT(S):

Attachment 1-1: City of Atwater Receipt #133838
Attachment 1-2: City of Atwater Receipt #133122
Attachment 1-3: City of Atwater Receipt #134844
Attachment 1-4: Memo from SI Hazel

SIGNATURE: 	DATE: 9/19/18	APPROVAL SIGNATURE: 	DATE: 10/08/18
PRINTED NAME: HERNANDEZ, ANDRE		PRINTED NAME: CAPELLO, RACHEL	
TITLE: SPECIAL AGENT SUPERVISOR		TITLE: SPECIAL AGENT IN CHARGE	
REPORT DISSEMINATION:			

City of Atwater, CA

No 133838

Received of: Atwater PD

Address: _____

Date	Description	Amt.
10/4/17	confiscated money	\$482.00

Amount	Account No.
\$482.00	0001-0000-6091-
\$	- - - - -
\$	- - - - -

White - Customer
2nd - Daily File

3rd - Function File
4th - Department

Cashier: DO

☐ Check _____
☒ Cash 482.00
☐ Charge _____

Validation
Area

City of Atwater, CA

Dep 10/16/17

No 133838

Received of: Atwater PP

Address: _____

Date	Description	Amt.
10/10/17		482.00

Amount	Account No.
\$482.-	0001-0000-6091-
\$	- - - - -
\$	- - - - -

White - Customer
2nd - Daily File

3rd - Function File
4th - Department

Cashier: DO

☐ Check _____
☐ Cash _____
☐ Charge _____

Validation
Area

City of Atwater, CA

No 133122

Received of:

Atwater PD

Address:

unclaimed prop

Date

Description

Amt.

4/7/17

Confiscated
MaribS

2039.00

Amount

Account No.

\$ ~~2039.00~~ ~~6000~~ ~~6091~~
\$ ~~6000~~ ~~6091~~
\$ ~~6000~~ ~~6091~~

Cashier:

☐ Check

☒ Cash

☐ Charge

2039.00

Validation
Area

White - Customer
2nd - Daily File

3rd - Function File
4th - Department

City of Atwater, CA

No 134844

Received of:

Atwater PD

Address:

Date

Description

Amt.

4/30/18

Cash

454.00

Change

82.50

(Slot Machine)

Amount

Account No.

\$536.50

0001-0000-6091-

\$

\$

White - Customer
2nd - Daily File

3rd - Function File
4th - Department

PAID

APR 30 2018

CITY OF ATWATER

Cashier

☐ Check

☒ Cash

☐ Charge

536.50

Validation
Area



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MEMORANDUM

TO: Larry D. Morse, II
District Attorney

FROM: Anna Hazel
Supervising Investigator

DATE: August 16, 2018

SUBJECT: Atwater Police Department

On 08/10/18, I conducted a recorded interview with Tyna Lamison, Administrative Supervisor for the Atwater Police Department. The interview was conducted at the Merced County District Attorney's Office where Lamison was read her rights pursuant to Miranda before any questioning began. Lamison waived her rights by answering "yes" when asked if she still wanted to speak with me after the advisement was given. The following constitutes a summary of the interview conducted. For Lamison's complete statement, please refer to the original recording.

Lamison stated that she has worked for the Atwater Police Department (APD) the last 20 years. Lamison stated she is retiring from the department and her last day will be 08/15/18. She stated that both her parents are in failing health and reside in Arizona where she will be moving to care for them full time. Lamison was first hired by the department in 1998 as a records clerk then held the position of Executive Assistant for 6-7 years before being named the Administrative Supervisor approximately 7 years ago. As an Administrative Supervisor, she is responsible for the supervision of the records unit (2 clerks), evidence unit (1 part time technician), provides clerical support and acts as the administrative assistant to the command staff of the department. Lamison stated that there is currently just one, part-time evidence technician named Daniel Ortiz who was hired approximately one year ago. Prior to Ortiz, she supervised part time evidence technician Laura Russo, who was with the department just 9 months. Prior to Russo, Lamison stated that retired APD Sgt. Mike Keeler oversaw evidence for the department. In all, Lamison listed 6 current and former evidence clerks and community service officers who have assisted in evidence matters over her 20 year tenure. Those included the following:

Tom Prothro
Beth Hopper

Jeff Connell
Laura Russo
Adolfo Morales
Daniel Ortiz

In addition, Lamison listed 7 Corporals, Sergeants and Chiefs who have either overseen evidence or had access to the department evidence room and off-site evidence storage facility. Those included the following:

Chief Jerry Moore
Chief Richard Hawthorne
Sgt. Jim Court (deceased)
Sgt. Rene Mendoza
Sgt. Mike Keeler
Cpl. Craig Williams (deceased)

Lamison stated that she never knew former Chief Frank Pietro or Chief Sam Joseph to have evidence keys.

Lamison advised that keys to the department evidence room were issued to or available to each of these individuals over the last 20 years. She was not aware of any documentation that would indicated a record of keys issued/returned and noted that the key to the evidence room was not a "do not duplicate" stamped key and could have been copied at any time. She also stated that if she was away from the office for a significant period of time (she gave the example of surgeries she has had) her key was left with the department and the Chief would designate someone to oversee her duties while she was away. She stated she did not always know who filled that role but stated those she was aware of because she personally provided them with her key were Sgt. Jim Court, Corporal Craig Williams, Sgt. Rene Mendoza and CSO Adolfo Morales. Lamison stated that the evidence room located within the department was secured by a keyed door only and there was no alarm affixed to the room and thus no alarm codes issued that could confirm or track any particular person's access to the room. Further, the room did not contain a paper sign in/out sheet that would provide a record of access.

Lamison did state that the department's off-site storage facility, located on Industry Wy., Atwater was in a locked warehouse, alarmed and secured by a fence. Lamison stated that the off-site facility was used to house older evidence and oversized evidence as the evidence room at the department was very small and unable to accommodate much volume. She estimated that the department evidence room housed the current year evidence plus possibly the year previous, depending on the amount of evidence booked in a given year. She stated that the off-site storage location was theoretically organized by years on the various shelving units, however, she stated that overall, the off-site storage and the department evidence room were not well organized. Lamison offered that although she believed that the evidence at the off-site storage facility was grouped together by year, there was no labeling present to indicate to someone walking in to the facility what year was where. Furthermore, in the department evidence room she stated that much of the evidence was simply thrown into "bins" to be sorted later after being removed from the temporary evidence locker (part of the same room), however, sorts were not done in a timely manner and the evidence in those bins could have been there for an extended period of time.

Lamison stated that for the past year, the APD has been in an ongoing audit/purge of evidence pursuant to a destruction order they secured from the court. She said that she has been assisted in the purge by Ortiz and CSO Adolfo Morales. The process has been very slow as Lamison stated she is only able to work on the purge when she is not busy with other duties and the destruction order is quite lengthy. She estimated that the last audit/purge of the APD evidence was in 2011 and facilitated by Sgt. Keeler. Lamison stated that the complete destruction order is at the APD and that as items listed for destruction are located and destroyed or sent for destruction a hand written check mark is located next to that item. She stated that this is, for some items, the only indicator it has been purged or set for destruction because the last step in this process for her, and a step she has not gotten to yet, is to remove the item from the department property list within their computer system. She admitted that the process has also been labored by the fact that the evidence room is not organized and maintained as it should be so the search for items takes more time than it necessarily should. However, Lamison was adamant that there has not been an item she has looked for that she has been unable to find or account for. She offered that has held true for the District Attorney's Office and Public Defender's Office as well and there has never been a complaint that something requested could not be produced.

Lamison stated that the Merced County Sheriff's Office was advised at the time of their visit earlier this year (later confirmed to be 02/08/18) that the department was actively engaged in an audit and evidence purge. She confirmed however, that the representatives of the Sheriff's Office did not review or ask for the destruction order paperwork and never spoke to her directly during their visit. She stated she was never questioned about missing items or asked to help locate items and recalled only that she had been told that they were there to help. When she made the disclaimer openly that the evidence room was very disorganized and that items were thrown into various bins to still be sorted through and matched to paperwork she was assured, "Don't worry that's not a problem. We are not here to point fingers. We are just here to help and help you organize...maybe find a better way to do your evidence room." Lamison expressed shock and dismay to later learn that there were now public allegations that there were guns, drugs and money missing from the evidence room at APD as a result of the Sheriff's Office day long audit on 02/08/18. She felt that was an unfair characterization and that her retirement was now being scrutinized and rumored about as somehow connected to this investigation. While she admits poor practices, inattention to the evidence duties due to a sometimes overwhelming span of control and a very lengthy purge process, Lamison maintained throughout the interview that she never encountered a situation in which she was unable to locate evidence, came across any evidence that had obviously been tampered with or observed any unauthorized person in the evidence room or manipulating evidence logged there.

I asked Lamison to take me through the process of booking and logging evidence at the APD. She was very candid in telling me that until approximately 1 year ago the APD never had a written evidence procedures policy in place. She stated that came only after Chief Sam Joseph took over at the department. She also offered that those involved in the maintenance of evidence at APD had not undergone much training, although that had improved some more recently. Lamison stated that an online course approximately 15 years ago on basic evidence procedure was the extent of her training. She believed that beginning with Russo, the part-time evidence technicians now were sent to a one week course in basic evidence procedures. Lamison said that officers who collect the evidence are responsible for packaging and labeling the evidence and placing it in the temporary evidence storage. She described that as a locked container that either her or the evidence technician would then, when time permitted, remove from the temporary container and place into one of the bins in the evidence room. The item would then be logged into the department computer system. There were no separate chain of custody

forms and the labels for evidence booked at APD consisted of case number, item and item number information only.

After obtaining the signed destruction order and beginning the most recent purge between 1 – 1 ½ years ago, Lamison stated that items began being pulled for destruction. She said that “general evidence” (i.e. items other than guns, drugs or money) are disposed of through use of a delivered garbage bin where the evidence would be thrown away and then removed by BFI or other service provider. Lamison stated that this destruction was always done in the presence of 2-3 people. For firearms and narcotics, APD uses a company called Covanta for destruction. She stated those items are checked off the destruction order and compiled for delivery to Covanta. She stated the transportation and delivery of those items are handled, at times, by officers and she recalled the most recent officers to have transported items to Covanta were Sgt. Snyder and Sgt. Echevarria. Deliveries to Covanta were also done by Daniel Ortiz and Adolfo Morales. Lamison stated that Covanta provides a receipt for the delivery but it is not itemized as to what specifically was brought in.

I then asked Lamison to explain how money taken as evidence is processed and stored and she began by stating that until just this year, the APD did not have a locking safe. She stated that the combination to the old military safe they had in the evidence room had been misplaced at one time, however, was later found years ago in her desk, unbeknownst to her. Even after the old safe combination was found, no one ever resumed locking that safe and she did not recall a time in all of the approximately 11 years she has been involved in evidence at APD ever seeing the safe locked. However, in February of this year a new safe was purchased with a digital combination lock for the storage of money brought into the evidence room. She knows that Daniel Ortiz has that digital combination and although she was given a copy of the combination in an email and a demonstration on how to use the safe, she has personally never accessed the new safe. Lamison said that it was rare that large amounts of money were seized other than in conjunction with a task force case in which the money was turned over for asset forfeiture. In the instances in which money was going to be booked and stored, again it was the responsibility of the seizing officer to package and label the money. Lamison stated that there was no independent verification of the amount or denominations of currency coming in unless the officer independently asked someone to witness it. The money would be put in the unlocked safe. Periodically, the money accumulated in the safe would be removed and taken to the City Finance Department which is located in the same building as the police department and given over for deposit in the City’s general fund. Lamison stated there was no particular person in charge of taking receipt of the APD cash deposits but rather it was just given to whoever was at the counter at the time. A written receipt was given back to the department and Lamison stated that an entry would be made in their computer system, associated with that case evidence that it was deposited. She stated this was not done on a scheduled or regular basis and could not say with any certainty when the last deposit may have been made.

The day before my interview with Lamison, Chief Investigator Bill Olson and I had a conference call with Undersheriff Jason Goins. Undersheriff Goins confirmed that Capt. Chuck Hale was a representative of the Sheriff’s Office who had visited the APD and spent a day going through their department evidence room in 02/18. Undersheriff Goins stated there were no written reports of any findings by Capt. Hale but that there may be notes pertaining to his visit that could be helpful to me in my interview. He recommended I contact Capt. Hale directly. I spoke with Capt. Hale by telephone later that same day and he stated that there were no notes of his visit but he did provide me with a verbal summary of the types of things he encountered during the 9 hours he spent going through the APD evidence room that day. Capt. Hale gave as an example of missing firearms an

empty evidence gun box he located in the room in which the zip ties were cut and the firearm removed from the box. He also stated he came across evidence packaging of a wallet with 2 evidence tags affixed. The one tag logged the wallet and the second the money that was contained in the wallet at the time of seizure. Hale said that the wallet was in the packaging but the currency was not. Capt. Hale also told me that former Atwater City Manager Art De Werk had told him that Lamison had made a comment to him that she "had enough bullets to sink the ship" or something to that effect. Capt. Hale stated that after spending all day in the APD evidence room and attempting to account for various items that he was unable to locate or found empty packaging of he concluded that there could be an issue with the maintenance of evidence and he did not want to proceed further. I asked Lamison if in any search whether it be a search for evidence for return, delivery to the District Attorney's Office, Public Defenders Office or to court or for audit/purge she ever came across empty packaging of an evidence firearm. Lamison recalled two incidents that she described. She was not certain of the exact dates but recalled that Sgt. Echevarria had checked out of evidence a firearm in a case that he was hand carrying to court. Lamison stated that she checked out the firearm to Sgt. Echevarria and that the entire packaging including the firearm was checked out and not just the firearm itself. However, the packaging was returned to evidence after the firearm was removed in court and booked into court evidence on the case. Lamison stated that she researched the matter when she saw the empty box and obtained the court paperwork showing the firearm was kept by the court as an exhibit in the case. Lamison went on to describe a case in which two firearms were taken in a case and later returned to the owner. At the time, the firearms had not been removed from the department system so she had to research the matter further and personally spoke with the owner of the firearms who stated that they had been returned to him.

I asked Lamison if she had ever come across any evidence packaging that appeared to have been opened or the contents manipulated. She stated that she had not but had only come across packaging in the off-site evidence storage location that was opened due to rodents chewing on the packaging and some package material deterioration over the years. Lamison stated that if the deterioration was extensive, she had on occasion re-packaged items and discarded the original.

Lamison denied ever making a statement that she "had enough bullets to sink the ship." She stated that she knows that she has been the subject of rumors over the years that she "knows where the skeletons are all buried" in the department and that stems largely from the positions she has held and the information she is privy to. Lamison believed that a lot of the rumor stemmed from a "disgruntled employee" (she later named off tape as Mike Teter) who she knew spoke to former City Manager De Werk. She also felt that some of the rumors about what she may or may not know within the department were fueled by comments she made during the investigation of Chief Joseph. She recalled stating that she had enough examples of Chief Joseph's sarcasm, harassment and overall poor treatment of her to have made a complaint. She stated that that her comments were directed at Chief Joseph and not to a general characterization of inappropriate behavior or conduct by the department and that the information she had on Chief Joseph's inappropriate behavior was fully disclosed during the internal investigation. Lamison was emphatic that she has not witnessed anything inappropriate with the handling or maintenance of evidence and that if she had, she would have advised her superiors. She maintained that she is very aware of the issues that lack of documentation or accountability for access to evidence presents but that she is an ethical person and would have not allowed the purposeful mishandling or removal of evidence. I asked Lamison pointedly if she had ever removed evidence from APD without authorization or official purpose and she

stated “no.” I asked her if she ever witnessed any of the 14 total people she named with access to the evidence room during her tenure at APD removing evidence without authorization and she stated “no.”

Given Lamison’s assertions about possible explanations for where items that Capt. Hale could not locate or account for during the previous audit, I contacted him again on 08/13/18. I asked Capt. Hale what documentation he reviewed at APD on 02/08/18 that contributed to his conclusion evidence was missing from the evidence room. Capt. Hale stated that he had an approximately 4” stack of printed evidence logs that he asked Daniel Ortiz to print for him. I asked him where those logs were and he stated that he still had them. I immediately drove over to the Sheriff’s Office to retrieve the logs and Capt. Hale met me in the parking lot and handed over the large stack of APD property logs titled “Property in Storage” all dated with a print date of 02/08/18. He pointed out to me that the items he had highlighted in yellow and those marked with a check mark were items that were successfully located in the evidence room on 02/08/18, however, Capt. Hale stated that they did not go through the entire list but rather, stopped after about 9 hours there. He specifically drew my attention to two entries on the first page of the stack (pg. #116 printed at the bottom of the page) that read:

<u>LOCATION</u>	<u>INCIDENT</u>	<u>ITEM</u>	<u>INV</u>	<u>NAME</u>	<u>MAKE</u>	<u>MODEL</u>	<u>VALUE</u>	<u>NATURE</u>
10SAFE	AG1600405	01	E	PAPER MONEY	UNK		\$6740.00	DEPT INFO
10SAFE	AG1103590	01	E	PAPER MONEY	US MINT		\$1950.00	415 PC

The entry for the \$1950.00 had associated court docket #CRM023045B. Capt. Hale stated that these were two examples of large amounts of cash evidence that was not in the safe. I immediately noticed that these were 2011 and 2016 cases by the configuration of the APD case number assigned to them and asked Capt. Hale if he knew that APD made deposits of cash evidence periodically to the City’s general fund. He stated he didn’t know that and when he had asked the evidence technician Ortiz if there were any outside accounts that the APD used for cash evidence the technician told him that he didn’t know. Capt. Hale also stated he received the same response from Sgt. Echeverria (then APD interim Chief). In my later review of the property logs Capt. Hale provided to me, I found that there were several handwritten notes in the margins of some of the sheets and particularly on pg. #114 a note was made about half way down the page on the left margin that read “1701787-2 Money Not On List > Deposit General Fund.” On pg. #115 of the property log, there was another note in the left margin toward the bottom of the page that read “√ Gen Fund – ~~Envelope 1,2,3 Missing~~ Money #2 Money Missing.” The notes indicated to me that someone had been told at least something about the use of the City’s general fund for deposits. There has been no follow up with the City of Atwater’s Finance Department regarding any deposits by the APD.

Recalling that the Capt. Hale’s description of an empty evidence gun box closely resembled the example that Lamison gave me of a gun retained in court evidence on one of Sgt. Echevarria’s cases, I asked Capt. Hale if he remembered if that empty gun box he saw on 02/08/18 was one of Sgt. Echevarria’s cases. He stated he couldn’t be certain but thought that it might have been because he did recall asking Sgt. Echevarria about it on 02/08/18. Capt. Hale said that Sgt. Echevarria told him that he thought that gun had gone over to the District Attorney’s Office during the prosecution of the case. Capt. Hale expressed to me that he didn’t think that was a plausible explanation as it has been his experience that the District Attorney’s Office is quick to get that evidence back to an agency because they don’t want to maintain or store it. When I asked Capt. Hale what he saw in that room that day that made him think that multiple guns were missing from APD evidence he stated that he just found it suspicious that most of the “old, rusted” guns were still able to be located but the firearms of some value couldn’t

be found. As I reviewed the several pages of evidence logs that did contain markings indicating they had been part of the audit done in 02/18, I found that there were at least 10 entries for firearms in cases dated 1997-2017 which did not have a "check mark" or were not highlighted which indicated that it was not located in the APD evidence room. After further research into some of the cases associated with unmarked entries I discovered that the indications of a "check mark" or highlight could not necessarily be relied upon without further review. For example, on pg. #133 of the APD evidence log there are multiple evidence guns listed under APD case AG1603256. All of the listed firearms, with the exception of one a Hipoint C9 pistol, are marked with a check mark which indicated they were located. However, when I looked this case up in the District Attorney's record management system (PbK #504787), I discovered this is a multiple defendant case gang/weapons case set for jury trial in 10/18 in which one of the check marked guns on the evidence log, a Ruger Police 6 .357, had already been released back to the rightful owner pursuant to a signed property release request by DDA Sara Rosenthal dated 01/03/18. Without further follow up, I do not know if Capt. Hale's check mark meant that he located the gun in APD evidence or accounted for the gun not being in evidence because it was verified by paperwork or the technician Daniel Ortiz that the gun had been released. There was nothing indicated in the "Dispo" column of the APD property sheet that I was provided by Capt. Hale that would have indicated it had been released back to the owner. I did conduct a CLETS check of that firearm's serial number and found it is registered in the owner's name and not still listed as a crime gun to APD as the other firearms are. There did not appear in the prosecution's file any other property release requests for any of the other firearms associated with the case. Capt. Hale also gave me the example of an item of evidence he encountered during the audit which consisted of a wallet with two evidence tags affixed. One tag described the wallet itself and the other cash that was contained in the wallet at the time of seizure. I posed that scenario to Lamison during the interview and asked her what the common practice would have been if she or one of her technicians was logging that item in from temporary evidence. She stated that it would not have been allowed to remain in the bins with cash inside. She stated that item would be opened, the cash removed and placed in the safe. She stated that a notation would be made in the computer that the cash was placed in the safe.

I had asked Capt. Hale if he knew that APD was in the middle of an evidence purge pursuant to a signed destruction order during the time of his visit in 02/18 and he stated that he was. He said he saw evidence items on the floor of the evidence room that day and that the technician assisting, Daniel Ortiz, had mentioned they were purging evidence items. Capt. Hale said he did not review the destruction order. I asked Capt. Hale if he spoke to the evidence supervisor Tyna Lamison while he was at APD in 02/18 and he said he did not. I asked Capt. Hale if he visited the APD off-site storage facility on that day and he said he did not.

When I asked Lamison to tell me what she believed the allegations of missing evidence stemmed from and she stated that she believed these items in question have likely been purged from evidence and not documented properly. She readily admits that there have been "bad practices," a lack of training, staffing problems (particularly that the evidence technician position is just a part time position) and too many other responsibilities placed upon her which left her with no time to insure proper checks and balances with regard to evidence were in place. Lamison believed that a thorough audit of the APD evidence room, off site location, destruction orders, property logs and the APD records system would allow for a complete account of any items in question. She offered that at the direction of Interim Chief Bessinger the APD evidence room was completely locked down the week of 08/06/18 and no one has been allowed in.